



Montana Legislative History

Chapter: 158 Session L: 2023 **Checklist of Bill History**

Bill Number: 169 House / Senate

History and Final Status Sheet ☒

Introduced Bill ☒

Fiscal Note ☒

Third Reading Bill ☒

Final Version of Bill ☒

House

Committee:

Judiciary

Hearing Date(s):

March 24, 2023

March 25, 2023

Committee Report:

Conference Committee

n/a

Hearing Date(s):

Conference Committee Report:

Senate

Committee:

Judiciary

Hearing Date(s):

January 19, 2023

Committee Report:

Compiler Notes

Compiled by:

Date:

Notes:

Bill Draft Number: LC0929**Bill Type - Number:** SB 169**Short Title:** Generally revise punitive damage laws**Primary Sponsor:** Greg Hertz (R) SD 6**Chapter Number:** 658**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 65

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/22/2023			
(S) Signed by Governor	05/19/2023			
(S) Transmitted to Governor	05/11/2023			
(H) Signed by Speaker	05/11/2023			
(S) Signed by President	05/04/2023			
(C) Printed - Enrolled Version Available	04/25/2023			
(S) Returned from Enrolling	04/25/2023			
(S) Sent to Enrolling	04/22/2023			
(S) 3rd Reading Passed as Amended by House	04/21/2023	34	16	
(S) Scheduled for 3rd Reading	04/21/2023			
(S) 2nd Reading House Amendments Concurred	04/20/2023	39	11	
(S) Scheduled for 2nd Reading	04/20/2023			
(S) Revised Fiscal Note Printed	04/11/2023			
(C) Fiscal Note Unsigned	04/11/2023			
(S) Revised Fiscal Note Received	04/11/2023			
(H) Returned to Senate with Amendments	04/06/2023			
(H) 3rd Reading Concurred	04/06/2023	64	29	
(H) Scheduled for 3rd Reading	04/06/2023			
(S) Revised Fiscal Note Requested	04/05/2023			
(C) Printed - New Version Available	04/04/2023			
(H) 2nd Reading Concurred as Amended	04/04/2023	66	33	
(H) 2nd Reading Motion to Amend Carried	04/04/2023	95	5	
(H) Scheduled for 2nd Reading	04/04/2023			
(C) Printed - New Version Available	03/27/2023			
(H) Committee Report--Bill Concurred as Amended	03/27/2023			(H) Judiciary
(H) Committee Executive Action--Bill Concurred as Amended	03/25/2023	12	7	(H) Judiciary
(H) Hearing	03/24/2023			(H) Judiciary
(H) First Reading	03/14/2023			
(H) Referred to Committee	03/13/2023			(H) Judiciary
(S) Revised Fiscal Note Requested	02/27/2023			
(S) Transmitted to House	02/17/2023			
(S) 3rd Reading Passed	02/16/2023	34	14	
(S) 2nd Reading Passed	02/15/2023	34	16	

(S) 2nd Reading Motion to Amend Failed	02/15/2023	17	33
(C) Printed - New Version Available	02/13/2023		
(S) Committee Report--Bill Passed as Amended	02/13/2023		(S) Judiciary
(S) Committee Executive Action--Bill Passed as Amended	02/09/2023	7	4 (S) Judiciary
(C) Amendments Available	01/30/2023		
(S) Fiscal Note Printed	01/24/2023		
(C) Fiscal Note Unsigned	01/24/2023		
(S) Fiscal Note Received	01/24/2023		
(S) Hearing	01/19/2023		(S) Judiciary
(S) Referred to Committee	01/16/2023		(S) Judiciary
(C) Introduced Bill Text Available Electronically	01/13/2023		
(S) First Reading	01/13/2023		
(C) Introduced Bill Text Available Electronically	01/13/2023		
(S) Fiscal Note Requested	01/12/2023		
(S) Introduced	01/12/2023		
(C) Fiscal Note Probable	01/12/2023		
(C) Draft Delivered to Requester	01/12/2023		
(C) Draft Ready for Delivery	01/10/2023		
(C) Executive Director Final Review	01/10/2023		
(C) Draft Ready for Delivery	01/10/2023		
(C) Executive Director Final Review	01/10/2023		
(C) Draft Ready for Delivery	01/10/2023		
(C) Draft in Assembly	01/10/2023		
(C) Executive Director Review	01/10/2023		
(C) Bill Draft Text Available Electronically	01/10/2023		
(C) Draft in Final Drafter Review	01/10/2023		
(C) Draft in Input/Proofing	01/10/2023		
(C) Draft to Drafter - Edit Review	01/09/2023		
(C) Draft in Edit	01/09/2023		
(C) Draft in Legal Review	01/07/2023		
(C) Draft to Requester for Review	01/05/2023		
(C) Draft Request Received	11/01/2022		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Hertz	Greg
Drafter	Krezowski	Madelyn
Primary Sponsor	Hertz	Greg

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Courts (see also: Judges and Justices; Juries and Jurors)		Simple	CORT
Liability (see also: Remedies; Torts)		Simple	LIA
Remedies (see also: Liability; Torts)		Simple	REM
State Finance (see also: Appropriations; Taxation Subjects)		Simple	STF
Torts (see also: Remedies; Liabilities)		Simple	TORT

Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number: 658

DEADLINE

Category: General Bills

Transmittal Date: 03/03/2023

Return (with 2nd house amendments) Date: 04/18/2023

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 19-MAY-23



AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS; PROHIBITING THE PLEADING OF PUNITIVE DAMAGES IN AN INITIAL PLEADING; PROVIDING THAT A PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE DEPOSITED IN THE GENERAL FUND; AMENDING SECTION 27-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-221, MCA, is amended to read:

"27-1-221. Punitive damages -- liability -- proof -- award. (1) Subject to the provisions of 27-1-220 and this section, reasonable punitive damages may be awarded when the defendant has been found guilty of actual fraud or actual malice.

(2) A defendant is guilty of actual malice if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury to the plaintiff; or

(b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

(3) A defendant is guilty of actual fraud if the defendant:

(a) makes a representation with knowledge of its falsity; or

(b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or otherwise causing injury.

(4) Actual fraud exists only when the plaintiff has a right to rely ~~upon~~ on the representation of the defendant and suffers injury as a result of that reliance. The contract definitions of fraud expressed in Title 28,

chapter 2, do not apply to proof of actual fraud under this section.

(5) A request for an award of punitive damages may not be contained within an initial pleading filed by a party with the court. At any time after the initial pleading is filed and discovery has commenced in the lawsuit, a party may move the court to allow the party to amend the pleading to assert a claim for punitive damages. The party making the motion may submit affidavits and documentation supporting the claim for punitive damages. A party opposing the motion may submit opposing affidavits and documentation. The court may not allow a party to assert a claim for punitive damages unless the affidavits and supporting documentation submitted by the party seeking punitive damages set forth specific facts supported by admissible evidence adequate to establish the existence of a triable issue on all elements of a punitive damages claim.

(5)(6) All elements of the claim for punitive damages must be proved by clear and convincing evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence but less than beyond a reasonable doubt.

(6)(7) Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

(7)(8) (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not admissible in a trial to determine whether a defendant is liable for punitive damages. When the jury returns a verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as provided in subsection (7)(c) (8)(c). In the separate proceeding to determine the amount of punitive damages to be awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

(b) When an award of punitive damages is made by the judge, the judge shall clearly state the reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of the following matters:

- (i) the nature and reprehensibility of the defendant's wrongdoing;
- (ii) the extent of the defendant's wrongdoing;
- (iii) the intent of the defendant in committing the wrong;
- (iv) the profitability of the defendant's wrongdoing, if applicable;
- (v) the amount of actual damages awarded by the jury;

- (vi) the defendant's net worth;
- (vii) previous awards of punitive or exemplary damages against the defendant based ~~upon~~ on the same wrongful act;
- (viii) potential or prior criminal sanctions against the defendant based ~~upon~~ on the same wrongful act; and
- (ix) any other circumstances that may operate to increase or reduce, without wholly defeating, punitive damages.

(c) The judge shall review a jury award of punitive damages, giving consideration to each of the matters listed in subsection ~~(7)(b)~~ (8)(b). If after review the judge determines that the jury award of punitive damages should be increased or decreased, the judge may do so. The judge shall clearly state the reasons for increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection ~~(7)(b)~~ (7)(c).

(9) (a) The judge shall divide the award of punitive damages equally between the prevailing party and the state and shall enter judgment accordingly.

(b) Upon entry of a judgment awarding punitive damages, the prevailing party shall provide written notice of the judgment to the state through the attorney general.

(c) The costs of litigation related to the award of punitive damages may be deducted from the full award of punitive damages.

(d) Reasonable attorney fees related to the award of punitive damages may be deducted from the full award of punitive damages after costs, but attorney fees deducted from the state's share may not exceed 20% of the state's share of the award of punitive damages after costs.

(e) The award to the state must be deposited in the general fund.

(f) The state has no interest in or right to intervene at any stage of a judicial proceeding pursuant to this subsection (9) except to enforce or execute a judgment entered in favor of the state.

(g) This subsection (9) does not apply to an award of punitive damages of \$200,000 or less.

(10) The jury may not be advised of the requirements under subsection (9) concerning the allocation of money received in payment of an award of punitive damages.

~~(8)~~(11) This section is not intended to alter the Montana Rules of Civil Procedure governing discovery

of a defendant's financial affairs, financial condition, and net worth.

(12) Subsections (9) and (10) do not apply to actions in which the state is a party."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to any actions filed on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 169, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 169

INTRODUCED BY G. HERTZ, J. ESP, B. BROWN, B. USHER, C. FRIEDEL, J. ELLSWORTH

AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS; PROHIBITING THE PLEADING OF PUNITIVE DAMAGES IN AN INITIAL PLEADING; PROVIDING THAT A PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE DEPOSITED IN THE GENERAL FUND; AMENDING SECTION 27-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

SENATE BILL NO. 169

INTRODUCED BY G. HERTZ, J. ESP, B. BROWN, B. USHER, C. FRIEDEL, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS; PROVIDING THAT A PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE; ESTABLISHING THE STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT IN THE STATE SPECIAL REVENUE FUND; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE DEPOSITED IN THE STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT; AND AMENDING SECTION 27-1-221, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Statewide public defender system account established. (1) There is a statewide public defender system account in the state special revenue fund provided for in 17-2-102.

(2) There must be paid into the account any punitive damages awarded to the state pursuant to 27-1-221.

(3) Money deposited in the account is subject to appropriation by the legislature and may be used only to fund the statewide public defender system established under Title 47, chapter 1.

Section 2. Section 27-1-221, MCA, is amended to read:

"27-1-221. Punitive damages -- liability -- proof -- award. (1) Subject to the provisions of 27-1-220 and this section, reasonable punitive damages may be awarded when the defendant has been found guilty of actual fraud or actual malice.

(2) A defendant is guilty of actual malice if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury to the plaintiff; or

(b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

1 (3) A defendant is guilty of actual fraud if the defendant:

2 (a) makes a representation with knowledge of its falsity; or

3 (b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or
4 otherwise causing injury.

5 (4) Actual fraud exists only when the plaintiff has a right to rely ~~upon~~ on the representation of the
6 defendant and suffers injury as a result of that reliance. The contract definitions of fraud expressed in Title 28,
7 chapter 2, do not apply to proof of actual fraud under this section.

8 (5) All elements of the claim for punitive damages must be proved by clear and convincing
9 evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt
10 about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence
11 but less than beyond a reasonable doubt.

12 (6) Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

13 (7) (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not
14 admissible in a trial to determine whether a defendant is liable for punitive damages. When the jury returns a
15 verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be
16 determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as
17 provided in subsection (7)(c). In the separate proceeding to determine the amount of punitive damages to be
18 awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

19 (b) When an award of punitive damages is made by the judge, the judge shall clearly state the
20 reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of
21 the following matters:

22 (i) the nature and reprehensibility of the defendant's wrongdoing;

23 (ii) the extent of the defendant's wrongdoing;

24 (iii) the intent of the defendant in committing the wrong;

25 (iv) the profitability of the defendant's wrongdoing, if applicable;

26 (v) the amount of actual damages awarded by the jury;

27 (vi) the defendant's net worth;

28 (vii) previous awards of punitive or exemplary damages against the defendant based ~~upon~~ on the

1 same wrongful act;

2 (viii) potential or prior criminal sanctions against the defendant based ~~upon~~ on the same wrongful
3 act; and

4 (ix) any other circumstances that may operate to increase or reduce, without wholly defeating,
5 punitive damages.

6 (c) The judge shall review a jury award of punitive damages, giving consideration to each of the
7 matters listed in subsection (7)(b). If after review the judge determines that the jury award of punitive damages
8 should be increased or decreased, the judge may do so. The judge shall clearly state the reasons for
9 increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of
10 fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection (7)(b).

11 (8) The judge shall divide the punitive damage award equally between the injured party and the
12 state and shall enter judgment accordingly. The award to the state must be deposited in the statewide public
13 defender system account established in [section 1].

14 ~~(8)(9)~~ This section is not intended to alter the Montana Rules of Civil Procedure governing discovery
15 of a defendant's financial affairs, financial condition, and net worth."
16

17 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
18 integral part of Title 47, chapter 1, part 1, and the provisions of Title 47, chapter 1, part 1, apply to [section 1].

19 - END -

SENATE BILL NO. 169

INTRODUCED BY G. HERTZ, J. ESP, B. BROWN, B. USHER, C. FRIEDEL, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS;
PROHIBITING THE PLEADING OF PUNITIVE DAMAGES IN AN INITIAL PLEADING; PROVIDING THAT A
PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE;
~~ESTABLISHING THE STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT IN THE STATE SPECIAL~~
~~REVENUE FUND~~; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE
DEPOSITED IN THE ~~STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT~~ GENERAL FUND; AND
AMENDING SECTION 27-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. — Statewide public defender system account established.~~ (1) There is
a statewide public defender system account in the state special revenue fund provided for in 17-2-102.

~~(2) — There must be paid into the account any punitive damages awarded to the state pursuant to~~
~~27-1-221.~~

~~(3) — Money deposited in the account is subject to appropriation by the legislature and may be used~~
~~only to fund the statewide public defender system established under Title 47, chapter 1.~~

Section 1. Section 27-1-221, MCA, is amended to read:

"27-1-221. Punitive damages -- liability -- proof -- award. (1) Subject to the provisions of 27-1-220
and this section, reasonable punitive damages may be awarded when the defendant has been found guilty of
actual fraud or actual malice.

(2) A defendant is guilty of actual malice if the defendant has knowledge of facts or intentionally
disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury

1 to the plaintiff; or

2 (b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

3 (3) A defendant is guilty of actual fraud if the defendant:

4 (a) makes a representation with knowledge of its falsity; or

5 (b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or
6 otherwise causing injury.

7 (4) Actual fraud exists only when the plaintiff has a right to rely ~~upon~~ on the representation of the
8 defendant and suffers injury as a result of that reliance. The contract definitions of fraud expressed in Title 28,
9 chapter 2, do not apply to proof of actual fraud under this section.

10 (5) A REQUEST FOR AN AWARD OF PUNITIVE DAMAGES MAY NOT BE CONTAINED WITHIN AN INITIAL
11 PLEADING FILED BY A PARTY WITH THE COURT. AT ANY TIME AFTER THE INITIAL PLEADING IS FILED AND DISCOVERY HAS
12 COMMENCED IN THE LAWSUIT, A PARTY MAY MOVE THE COURT TO ALLOW THE PARTY TO AMEND THE PLEADING TO
13 ASSERT A CLAIM FOR PUNITIVE DAMAGES. THE PARTY MAKING THE MOTION MAY SUBMIT AFFIDAVITS AND
14 DOCUMENTATION SUPPORTING THE CLAIM FOR PUNITIVE DAMAGES. A PARTY OPPOSING THE MOTION MAY SUBMIT
15 OPPOSING AFFIDAVITS AND DOCUMENTATION. THE COURT MAY NOT ALLOW A PARTY TO ASSERT A CLAIM FOR PUNITIVE
16 DAMAGES UNLESS THE AFFIDAVITS AND SUPPORTING DOCUMENTATION SUBMITTED BY THE PARTY SEEKING PUNITIVE
17 DAMAGES SET FORTH SPECIFIC FACTS SUPPORTED BY ADMISSIBLE EVIDENCE ADEQUATE TO ESTABLISH THE EXISTENCE
18 OF A TRIABLE ISSUE ON ALL ELEMENTS OF A PUNITIVE DAMAGES CLAIM.

19 ~~(5)~~(6) All elements of the claim for punitive damages must be proved by clear and convincing
20 evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt
21 about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence
22 but less than beyond a reasonable doubt.

23 ~~(6)~~(7) Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

24 ~~(7)~~(8) (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not
25 admissible in a trial to determine whether a defendant is liable for punitive damages. When the jury returns a
26 verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be
27 determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as
28 provided in subsection ~~(7)(c)~~ (8)(c). In the separate proceeding to determine the amount of punitive damages to

be awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

(b) When an award of punitive damages is made by the judge, the judge shall clearly state the reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of the following matters:

- (i) the nature and reprehensibility of the defendant's wrongdoing;
- (ii) the extent of the defendant's wrongdoing;
- (iii) the intent of the defendant in committing the wrong;
- (iv) the profitability of the defendant's wrongdoing, if applicable;
- (v) the amount of actual damages awarded by the jury;
- (vi) the defendant's net worth;
- (vii) previous awards of punitive or exemplary damages against the defendant based ~~upon~~ on the same wrongful act;
- (viii) potential or prior criminal sanctions against the defendant based ~~upon~~ on the same wrongful act; and
- (ix) any other circumstances that may operate to increase or reduce, without wholly defeating, punitive damages.

(c) The judge shall review a jury award of punitive damages, giving consideration to each of the matters listed in subsection ~~(7)(b)~~ (8)(B). If after review the judge determines that the jury award of punitive damages should be increased or decreased, the judge may do so. The judge shall clearly state the reasons for increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection ~~(7)(b)~~ (7)(C).

~~(8)(9)~~ (A) The judge shall divide the AWARD OF punitive damage award DAMAGES equally between the injured PREVAILING party and the state and shall enter judgment accordingly.

(B) UPON ENTRY OF A JUDGMENT AWARDING PUNITIVE DAMAGES, THE PREVAILING PARTY SHALL PROVIDE WRITTEN NOTICE OF THE JUDGMENT TO THE STATE THROUGH THE ATTORNEY GENERAL.

(C) THE COSTS OF LITIGATION RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED FROM THE FULL AWARD OF PUNITIVE DAMAGES.

(D) REASONABLE ATTORNEY FEES RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED

FROM THE FULL AWARD OF PUNITIVE DAMAGES AFTER COSTS, BUT ATTORNEY FEES DEDUCTED FROM THE STATE'S SHARE MAY NOT EXCEED 20% OF THE STATE'S SHARE OF THE AWARD OF PUNITIVE DAMAGES AFTER COSTS.

(E) The award to the state must be deposited in the ~~statewide public defender system account established in [section 1]~~ GENERAL FUND.

(F) THE STATE HAS NO INTEREST IN OR RIGHT TO INTERVENE AT ANY STAGE OF A JUDICIAL PROCEEDING PURSUANT TO THIS SUBSECTION (9) EXCEPT TO ENFORCE OR EXECUTE A JUDGMENT ENTERED IN FAVOR OF THE STATE.

(10) THE JURY MAY NOT BE ADVISED OF THE REQUIREMENTS UNDER SUBSECTION (9) CONCERNING THE ALLOCATION OF MONEY RECEIVED IN PAYMENT OF AN AWARD OF PUNITIVE DAMAGES.

~~(8)(9)(11)~~ This section is not intended to alter the Montana Rules of Civil Procedure governing discovery of a defendant's financial affairs, financial condition, and net worth."

~~NEW SECTION. Section 3. — Codification instruction. [Section 1] is intended to be codified as an integral part of Title 47, chapter 1, part 1, and the provisions of Title 47, chapter 1, part 1, apply to [section 1].~~

~~NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.~~

~~NEW SECTION. SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO ANY ACTIONS FILED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].~~

- END -

SENATE BILL NO. 169

INTRODUCED BY G. HERTZ, J. ESP, B. BROWN, B. USHER, C. FRIEDEL, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS;
PROHIBITING THE PLEADING OF PUNITIVE DAMAGES IN AN INITIAL PLEADING; PROVIDING THAT A
PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE;
~~ESTABLISHING THE STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT IN THE STATE SPECIAL~~
~~REVENUE FUND~~; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE
DEPOSITED IN THE ~~STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT~~ GENERAL FUND; AND
AMENDING SECTION 27-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. — Statewide public defender system account established.~~ (1) There is
a statewide public defender system account in the state special revenue fund provided for in 17-2-102.

~~(2) — There must be paid into the account any punitive damages awarded to the state pursuant to~~
~~27-1-221.~~

~~(3) — Money deposited in the account is subject to appropriation by the legislature and may be used~~
~~only to fund the statewide public defender system established under Title 47, chapter 1.~~

Section 1. Section 27-1-221, MCA, is amended to read:

"27-1-221. Punitive damages -- liability -- proof -- award. (1) Subject to the provisions of 27-1-220
and this section, reasonable punitive damages may be awarded when the defendant has been found guilty of
actual fraud or actual malice.

(2) A defendant is guilty of actual malice if the defendant has knowledge of facts or intentionally
disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury

1 to the plaintiff; or

2 (b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

3 (3) A defendant is guilty of actual fraud if the defendant:

4 (a) makes a representation with knowledge of its falsity; or

5 (b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or
6 otherwise causing injury.

7 (4) Actual fraud exists only when the plaintiff has a right to rely ~~upon~~ on the representation of the
8 defendant and suffers injury as a result of that reliance. The contract definitions of fraud expressed in Title 28,
9 chapter 2, do not apply to proof of actual fraud under this section.

10 (5) A REQUEST FOR AN AWARD OF PUNITIVE DAMAGES MAY NOT BE CONTAINED WITHIN AN INITIAL
11 PLEADING FILED BY A PARTY WITH THE COURT. AT ANY TIME AFTER THE INITIAL PLEADING IS FILED AND DISCOVERY HAS
12 COMMENCED IN THE LAWSUIT, A PARTY MAY MOVE THE COURT TO ALLOW THE PARTY TO AMEND THE PLEADING TO
13 ASSERT A CLAIM FOR PUNITIVE DAMAGES. THE PARTY MAKING THE MOTION MAY SUBMIT AFFIDAVITS AND
14 DOCUMENTATION SUPPORTING THE CLAIM FOR PUNITIVE DAMAGES. A PARTY OPPOSING THE MOTION MAY SUBMIT
15 OPPOSING AFFIDAVITS AND DOCUMENTATION. THE COURT MAY NOT ALLOW A PARTY TO ASSERT A CLAIM FOR PUNITIVE
16 DAMAGES UNLESS THE AFFIDAVITS AND SUPPORTING DOCUMENTATION SUBMITTED BY THE PARTY SEEKING PUNITIVE
17 DAMAGES SET FORTH SPECIFIC FACTS SUPPORTED BY ADMISSIBLE EVIDENCE ADEQUATE TO ESTABLISH THE EXISTENCE
18 OF A TRIABLE ISSUE ON ALL ELEMENTS OF A PUNITIVE DAMAGES CLAIM.

19 ~~(5)(6)~~ All elements of the claim for punitive damages must be proved by clear and convincing
20 evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt
21 about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence
22 but less than beyond a reasonable doubt.

23 ~~(6)(7)~~ Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

24 ~~(7)(8)~~ (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not
25 admissible in a trial to determine whether a defendant is liable for punitive damages. When the jury returns a
26 verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be
27 determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as
28 provided in subsection ~~(7)(c)~~ (8)(c). In the separate proceeding to determine the amount of punitive damages to

be awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

(b) When an award of punitive damages is made by the judge, the judge shall clearly state the reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of the following matters:

- (i) the nature and reprehensibility of the defendant's wrongdoing;
- (ii) the extent of the defendant's wrongdoing;
- (iii) the intent of the defendant in committing the wrong;
- (iv) the profitability of the defendant's wrongdoing, if applicable;
- (v) the amount of actual damages awarded by the jury;
- (vi) the defendant's net worth;
- (vii) previous awards of punitive or exemplary damages against the defendant based ~~upon~~ on the same wrongful act;
- (viii) potential or prior criminal sanctions against the defendant based ~~upon~~ on the same wrongful act; and
- (ix) any other circumstances that may operate to increase or reduce, without wholly defeating, punitive damages.

(c) The judge shall review a jury award of punitive damages, giving consideration to each of the matters listed in subsection ~~(7)(b)~~ (8)(B). If after review the judge determines that the jury award of punitive damages should be increased or decreased, the judge may do so. The judge shall clearly state the reasons for increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection ~~(7)(b)~~ (7)(C).

~~(8)(9)~~ (A) The judge shall divide the AWARD OF punitive damage award DAMAGES equally between the injured PREVAILING party and the state and shall enter judgment accordingly.

(B) UPON ENTRY OF A JUDGMENT AWARDING PUNITIVE DAMAGES, THE PREVAILING PARTY SHALL PROVIDE WRITTEN NOTICE OF THE JUDGMENT TO THE STATE THROUGH THE ATTORNEY GENERAL.

(C) THE COSTS OF LITIGATION RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED FROM THE FULL AWARD OF PUNITIVE DAMAGES.

(D) REASONABLE ATTORNEY FEES RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED

FROM THE FULL AWARD OF PUNITIVE DAMAGES AFTER COSTS, BUT ATTORNEY FEES DEDUCTED FROM THE STATE'S SHARE MAY NOT EXCEED 20% OF THE STATE'S SHARE OF THE AWARD OF PUNITIVE DAMAGES AFTER COSTS.

(E) The award to the state must be deposited in the ~~statewide public defender system account established in [section 1]~~ GENERAL FUND.

(F) THE STATE HAS NO INTEREST IN OR RIGHT TO INTERVENE AT ANY STAGE OF A JUDICIAL PROCEEDING PURSUANT TO THIS SUBSECTION (9) EXCEPT TO ENFORCE OR EXECUTE A JUDGMENT ENTERED IN FAVOR OF THE STATE.

(10) THE JURY MAY NOT BE ADVISED OF THE REQUIREMENTS UNDER SUBSECTION (9) CONCERNING THE ALLOCATION OF MONEY RECEIVED IN PAYMENT OF AN AWARD OF PUNITIVE DAMAGES.

~~(8)(9)(11)~~ This section is not intended to alter the Montana Rules of Civil Procedure governing discovery of a defendant's financial affairs, financial condition, and net worth.

(12) SUBSECTIONS (9) AND (10) DO NOT APPLY TO ACTIONS IN WHICH THE STATE IS A PARTY."

~~NEW SECTION. Section 3. — Codification instruction. [Section 1] is intended to be codified as an integral part of Title 47, chapter 1, part 1, and the provisions of Title 47, chapter 1, part 1, apply to [section 1].~~

~~NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.~~

~~NEW SECTION. SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO ANY ACTIONS FILED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].~~

- END -

SENATE BILL NO. 169

INTRODUCED BY G. HERTZ, J. ESP, B. BROWN, B. USHER, C. FRIEDEL, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUNITIVE DAMAGES LAWS;
PROHIBITING THE PLEADING OF PUNITIVE DAMAGES IN AN INITIAL PLEADING; PROVIDING THAT A
PUNITIVE DAMAGES AWARD BE EQUALLY DIVIDED BETWEEN THE INJURED PARTY AND THE STATE;
~~ESTABLISHING THE STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT IN THE STATE SPECIAL~~
~~REVENUE FUND~~; REQUIRING PUNITIVE DAMAGES THAT ARE AWARDED TO THE STATE TO BE
DEPOSITED IN THE ~~STATEWIDE PUBLIC DEFENDER SYSTEM ACCOUNT~~ GENERAL FUND; AND
AMENDING SECTION 27-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. — Statewide public defender system account established.~~ (1) There is
a statewide public defender system account in the state special revenue fund provided for in 17-2-102.

~~(2) — There must be paid into the account any punitive damages awarded to the state pursuant to~~
~~27-1-221.~~

~~(3) — Money deposited in the account is subject to appropriation by the legislature and may be used~~
~~only to fund the statewide public defender system established under Title 47, chapter 1.~~

Section 1. Section 27-1-221, MCA, is amended to read:

"27-1-221. Punitive damages -- liability -- proof -- award. (1) Subject to the provisions of 27-1-220
and this section, reasonable punitive damages may be awarded when the defendant has been found guilty of
actual fraud or actual malice.

(2) A defendant is guilty of actual malice if the defendant has knowledge of facts or intentionally
disregards facts that create a high probability of injury to the plaintiff and:

(a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury

1 to the plaintiff; or

2 (b) deliberately proceeds to act with indifference to the high probability of injury to the plaintiff.

3 (3) A defendant is guilty of actual fraud if the defendant:

4 (a) makes a representation with knowledge of its falsity; or

5 (b) conceals a material fact with the purpose of depriving the plaintiff of property or legal rights or
6 otherwise causing injury.

7 (4) Actual fraud exists only when the plaintiff has a right to rely ~~upon~~ on the representation of the
8 defendant and suffers injury as a result of that reliance. The contract definitions of fraud expressed in Title 28,
9 chapter 2, do not apply to proof of actual fraud under this section.

10 (5) A REQUEST FOR AN AWARD OF PUNITIVE DAMAGES MAY NOT BE CONTAINED WITHIN AN INITIAL
11 PLEADING FILED BY A PARTY WITH THE COURT. AT ANY TIME AFTER THE INITIAL PLEADING IS FILED AND DISCOVERY HAS
12 COMMENCED IN THE LAWSUIT, A PARTY MAY MOVE THE COURT TO ALLOW THE PARTY TO AMEND THE PLEADING TO
13 ASSERT A CLAIM FOR PUNITIVE DAMAGES. THE PARTY MAKING THE MOTION MAY SUBMIT AFFIDAVITS AND
14 DOCUMENTATION SUPPORTING THE CLAIM FOR PUNITIVE DAMAGES. A PARTY OPPOSING THE MOTION MAY SUBMIT
15 OPPOSING AFFIDAVITS AND DOCUMENTATION. THE COURT MAY NOT ALLOW A PARTY TO ASSERT A CLAIM FOR PUNITIVE
16 DAMAGES UNLESS THE AFFIDAVITS AND SUPPORTING DOCUMENTATION SUBMITTED BY THE PARTY SEEKING PUNITIVE
17 DAMAGES SET FORTH SPECIFIC FACTS SUPPORTED BY ADMISSIBLE EVIDENCE ADEQUATE TO ESTABLISH THE EXISTENCE
18 OF A TRIABLE ISSUE ON ALL ELEMENTS OF A PUNITIVE DAMAGES CLAIM.

19 ~~(5)~~(6) All elements of the claim for punitive damages must be proved by clear and convincing
20 evidence. Clear and convincing evidence means evidence in which there is no serious or substantial doubt
21 about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence
22 but less than beyond a reasonable doubt.

23 ~~(6)~~(7) Liability for punitive damages must be determined by the trier of fact, whether judge or jury.

24 ~~(7)~~(8) (a) Evidence regarding a defendant's financial affairs, financial condition, and net worth is not
25 admissible in a trial to determine whether a defendant is liable for punitive damages. When the jury returns a
26 verdict finding a defendant liable for punitive damages, the amount of punitive damages must then be
27 determined by the jury in an immediate, separate proceeding and be submitted to the judge for review as
28 provided in subsection ~~(7)(c)~~ (8)(c). In the separate proceeding to determine the amount of punitive damages to

be awarded, the defendant's financial affairs, financial condition, and net worth must be considered.

(b) When an award of punitive damages is made by the judge, the judge shall clearly state the reasons for making the award in findings of fact and conclusions of law, demonstrating consideration of each of the following matters:

- (i) the nature and reprehensibility of the defendant's wrongdoing;
- (ii) the extent of the defendant's wrongdoing;
- (iii) the intent of the defendant in committing the wrong;
- (iv) the profitability of the defendant's wrongdoing, if applicable;
- (v) the amount of actual damages awarded by the jury;
- (vi) the defendant's net worth;
- (vii) previous awards of punitive or exemplary damages against the defendant based ~~upon~~ on the same wrongful act;
- (viii) potential or prior criminal sanctions against the defendant based ~~upon~~ on the same wrongful act; and
- (ix) any other circumstances that may operate to increase or reduce, without wholly defeating, punitive damages.

(c) The judge shall review a jury award of punitive damages, giving consideration to each of the matters listed in subsection ~~(7)(b)~~ (8)(B). If after review the judge determines that the jury award of punitive damages should be increased or decreased, the judge may do so. The judge shall clearly state the reasons for increasing, decreasing, or not increasing or decreasing the punitive damages award of the jury in findings of fact and conclusions of law, demonstrating consideration of each of the factors listed in subsection ~~(7)(b)~~ (7)(C).

~~(8)(9)~~ (A) The judge shall divide the AWARD OF punitive damage award DAMAGES equally between the injured PREVAILING party and the state and shall enter judgment accordingly.

(B) UPON ENTRY OF A JUDGMENT AWARDING PUNITIVE DAMAGES, THE PREVAILING PARTY SHALL PROVIDE WRITTEN NOTICE OF THE JUDGMENT TO THE STATE THROUGH THE ATTORNEY GENERAL.

(C) THE COSTS OF LITIGATION RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED FROM THE FULL AWARD OF PUNITIVE DAMAGES.

(D) REASONABLE ATTORNEY FEES RELATED TO THE AWARD OF PUNITIVE DAMAGES MAY BE DEDUCTED

1 FROM THE FULL AWARD OF PUNITIVE DAMAGES AFTER COSTS, BUT ATTORNEY FEES DEDUCTED FROM THE STATE'S
2 SHARE MAY NOT EXCEED 20% OF THE STATE'S SHARE OF THE AWARD OF PUNITIVE DAMAGES AFTER COSTS.

3 (E) The award to the state must be deposited in the statewide public defender system account
4 established in [section 1] GENERAL FUND.

5 (F) THE STATE HAS NO INTEREST IN OR RIGHT TO INTERVENE AT ANY STAGE OF A JUDICIAL PROCEEDING
6 PURSUANT TO THIS SUBSECTION (9) EXCEPT TO ENFORCE OR EXECUTE A JUDGMENT ENTERED IN FAVOR OF THE STATE.

7 (G) THIS SUBSECTION (9) DOES NOT APPLY TO AN AWARD OF PUNITIVE DAMAGES OF \$200,000 OR LESS.

8 (10) THE JURY MAY NOT BE ADVISED OF THE REQUIREMENTS UNDER SUBSECTION (9) CONCERNING THE
9 ALLOCATION OF MONEY RECEIVED IN PAYMENT OF AN AWARD OF PUNITIVE DAMAGES.

10 (8)(9)(11) This section is not intended to alter the Montana Rules of Civil Procedure governing
11 discovery of a defendant's financial affairs, financial condition, and net worth.

12 (12) SUBSECTIONS (9) AND (10) DO NOT APPLY TO ACTIONS IN WHICH THE STATE IS A PARTY."

14 NEW SECTION. Section 3. — Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 47, chapter 1, part 1, and the provisions of Title 47, chapter 1, part 1, apply to [section 1].

17 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

19 NEW SECTION. SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO ANY ACTIONS FILED ON OR AFTER [THE
20 EFFECTIVE DATE OF THIS ACT].

21 - END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:	
SB0169 - Generally revise punitive damage laws (Hertz, Greg)	
Status:	As Introduced

- | | | |
|---|--|---|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☒ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
Expenditures:				
General Fund		*****UNKNOWN*****		
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue		*****UNKNOWN*****		
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 169 allocates punitive damages in court cases to be split equally between the injured party and the state. Funds that may come to the state would be deposited to an account for the benefit of the Office of Public Defender. The state does not have a means to determine the number or amount of punitive damage awards that may bring revenue to the state special revenue account created by the bill. It is assumed that any funds received in the account would supplement existing funding for the Office of the Public Defender, but the amount cannot be reasonably determined.

NO SPONSOR SIGNATURE

Sponsor's Initials

Date

Budget Director's Initials

Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0169 - Generally revise punitive damage laws (Hertz, Greg)

Status: As Amended in Senate

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	*	*	*	*
Net Impact-General Fund Balance	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>

Description of fiscal impact: The state may receive a portion of punitive damages, as described in the legislation. The damages will be deposited in the general fund. *However, the amount of any such damages cannot be determined.

NO SPONSOR SIGNATURE

Sponsor's Initials

4.11.23

Date

[Signature]

Budget Director's Initials

4-11-23

Date

MINUTES
MONTANA SENATE
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (S) JUDICIARY

Call to Order: Chair Sen. Keith Regier-R, on January 19, 2023 at 9:02 AM, in 303

ROLL CALL

Members Present: Sen. Keith Regier, Chair (R)
Sen. Jen Gross, Vice Chair (D)
Sen. Barry Usher, Vice Chair (R)
Sen. Bob Brown (R)
Sen. Daniel Emrich (R)
Sen. Chris Friedel (R)
Sen. Steve Hinebaugh (R)
Sen. Kathy Kelker (D)
Sen. Theresa Manzella (R)
Sen. Andrea Olsen (D)
Sen. Susan Webber (D)

Staff Present: Grace Gibney, Secretary
Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 169 01/16/2023
SB 171 01/16/2023
SB 172 01/16/2023

Executive Action:

SB 159 DO PASS

HEARING ON SB 169 - Generally revise punitive damage laws

Opening Statement:

09:03:16 Sen. Greg Hertz (R), SD 12, opened the hearing on SB 169, Generally revise punitive damage laws.

Discussion:

[EXHIBIT\(230119JUSa1\)](#)

Proponent Testimony:

09:09:07 Steve Wade, Montana Chamber of Commerce

Opponent Testimony:

09:10:33 Al Smith, Montana Trial Lawyers Association

09:20:00 Sean Slanger, Montana Defense Trial Lawyers Association

Informational Witness Testimony:

None

Questions from Committee:

09:21:46 Sen. Keith Regier

09:22:15 Sen. Greg Hertz-R

09:22:42 Sen. Theresa Manzella

09:23:11 Sen. Greg Hertz-R

09:24:25 Al Smith, Montana Trial Lawyers Association

09:25:18 Sen. Andrea Olsen

09:26:13 Sen. Greg Hertz-R

09:27:48 Sen. Andrea Olsen

09:27:51 Al Smith, Montana Trial Lawyers Association

09:31:50 Sen. Kathy Kelker

09:32:49 Al Smith, Montana Trial Lawyers Association

09:35:27 Sen. Daniel Emrich
09:35:58 Al Smith, Montana Trial Lawyers Association
09:37:33 Sen. Daniel Emrich
09:37:35 Sean Slanger, Montana Defense Trial Lawyers Association
09:38:17 Sen. Susan Webber
09:38:28 Al Smith, Montana Trial Lawyers Association

Closing Statement:

09:40:07 Sen. Greg Hertz (R), SD 12, closed the hearing on SB 169.

HEARING ON SB 172 - Generally revise bail bond laws

Opening Statement:

09:43:10 Sen. Chris Friedel (R), SD 26, opened the hearing on SB 172, Generally revise bail bond laws.

Proponent Testimony:

None

Opponent Testimony:

09:45:19 John Looney, National Association of Bail Agents Montana
09:52:55 Kelly Reisbeck, Central Montana Bail Bonds
09:53:23 Jeff Carter, Montana Bondsman
09:53:46 Frank Cote, Commissioner of Securities and Insurance

Informational Witness Testimony:

None

Questions from Committee:

09:59:36 Sen. Kathy Kelker
09:59:37 John Looney, National Association of Bail Agents Montana
10:01:44 Sen. Barry Usher

10:02:13 Frank Cote, Commissioner of Securities and Insurance

Closing Statement:

10:04:35 Sen. Chris Friedel (R), SD 26, closed the hearing on SB 172.

HEARING ON SB 171 - Provide for distribution of certain property/funds after inmate dies in custody

Opening Statement:

10:08:46 Sen. Keith Regier (R), SD 3, opened the hearing on SB 171, Provide for distribution of certain property/funds after inmate dies in custody.

Proponent Testimony:

10:11:20 Jim Anderson, Montana Department of Corrections

10:12:49 Maggie Bornstein, American Civil Liberties Union of Montana

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

10:13:57 Sen. Jen Gross

10:14:43 Jim Anderson, Montana Department of Corrections

10:15:24 Sen. Jen Gross

10:15:27 Sen. Keith Regier-R

10:16:45 Sen. Susan Webber

10:18:09 Sen. Keith Regier-R

10:18:21 Sen. Andrea Olsen

10:19:43 Jim Anderson, Montana Department of Corrections

10:24:17 Sen. Susan Webber

10:25:24 Jim Anderson, Montana Department of Corrections

Closing Statement:

10:25:42 Sen. Keith Regier (R), SD 3, closed the hearing on SB 171.

EXECUTIVE ACTION ON SB 159 - Restrict use of eminent domain

10:49:53 **Motion:** Sen. Barry Usher moved that **SB 159 DO PASS.**

Discussion:

10:50:08 Sen. Andrea Olsen

10:51:12 Sen. Daniel Emrich

10:49:53 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Webber, By Proxy

ADJOURNMENT

Adjournment: 10:54:32

Grace Gibney, Secretary

Additional Documents: [EXHIBIT\(230119JUSaad\)](#)

SB 169

SENATE JUDICIARY

Exhibit No. 1

Date: 1/19/23

Bill No. SB169

States with Split Punitive Damages Statutes

- Alaska
 - 50% goes to the general fund.
- Georgia
 - 75% goes to the general fund.
- Illinois
 - Leaves the percentage allocation to the discretion of the judge in each case.
- Indiana
 - 75% goes to violent crimes victim fund
- Missouri
 - 50% to general fund
- Oregon
 - 60% to crimes injury compensation fund
 - 10% to state courts facilities and security account
- Utah
 - 50% goes to the general fund.

Pros

- Prevents large windfalls to individual plaintiffs.
- Recognizes that punitive damage awards are often levied where there is widespread harm to individuals other than the plaintiff and allows the award to be allocated in a manner that reaches more potentially injured people.
- Resolves the disconnect between the societal purposes for which punitive damages are awarded (punishment, deterrence) and the individualized receipt of such awards.
- Decreases the number and size of punitive damage awards, thereby slowing increase to liability insurance premiums and improving availability of insurance.
- Properly directs punitive damages, which are analogous to criminal fines, to the State.
- Produces similar deterrence at lower social cost by reducing the strain on courts caused by frivolous suits.

MINUTES
MONTANA SENATE
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (S) JUDICIARY

Call to Order: Chair Sen. Keith Regier-R, on February 09, 2023 at 9:02 AM, in 303

ROLL CALL

Members Present: Sen. Keith Regier, Chair (R)
Sen. Barry Usher, Vice Chair (R)
Sen. Bob Brown (R)
Sen. Daniel Emrich (R)
Sen. Steve Hinebaugh (R)
Sen. Kathy Kelker (D)
Sen. Theresa Manzella (R)
Sen. Andrea Olsen (D)
Sen. Susan Webber (D)

Members Excused: Sen. Chris Friedel (R)
Sen. Jen Gross (D)

Staff Present: Grace Gibney, Secretary
Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 278 02/06/2023

SB 279 02/06/2023

Executive Action:

SB 210 DO PASS AS AMENDED

SB 218 DO PASS

SB 247 DO PASS

SB 252 DO PASS

HB 79

HB 112

SB 169 DO PASS AS AMENDED

**HEARING ON SB 278 - Authorize legislative officer intervention in declaratory judgment
action**

Opening Statement:

09:03:05 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 278,
Authorize legislative officer intervention in declaratory judgment action.

09:03:30 Sen. Gross has arrived

Proponent Testimony:

None

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

09:07:13 Sen. Jen Gross

09:07:38 Sen. Steve Fitzpatrick-R

09:08:50 Sen. Andrea Olsen

09:09:28 Sen. Steve Fitzpatrick-R

09:11:50 Sen. Chris Friedel joined the meeting.

09:18:07 Sen. Regier has left

09:21:39 Sen. Theresa Manzella

09:22:33 Sen. Steve Fitzpatrick-R

09:24:18 Sen. Kathy Kelker

09:25:30 Sen. Steve Fitzpatrick-R

09:26:12 Sen. Barry Usher

09:26:32 Sen. Steve Fitzpatrick-R

09:27:31 Sen. Andrea Olsen

09:28:13 Sen. Steve Fitzpatrick-R
09:31:16 Sen. Susan Webber
09:32:51 Sen. Steve Fitzpatrick-R
09:34:32 Sen. Theresa Manzella
09:35:11 Sen. Steve Fitzpatrick-R

Closing Statement:

09:35:59 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 278.

HEARING ON SB 279 - Revise offer of settlement law

Opening Statement:

09:36:21 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 279, Revise offer of settlement law.

Proponent Testimony:

09:39:53 Charles Robinson, Montana Manufactures Association, Montana Chamber of Commerce
09:40:28 Aimee Grmoljez, Montana Bankers Association

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

09:41:36 Sen. Theresa Manzella
09:42:15 Sen. Steve Fitzpatrick-R
09:42:18 Sen. Daniel Emrich
09:43:00 Sen. Steve Fitzpatrick-R
09:47:50 Sen. Daniel Emrich

09:48:01 Charles Robinson, Montana Manufactures Association, Montana Chamber of Commerce

09:49:44 Sen. Susan Webber

09:50:13 Sen. Steve Fitzpatrick-R

09:53:10 Sen. Andrea Olsen

09:54:04 Sen. Steve Fitzpatrick-R

Closing Statement:

09:55:11 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 279.

EXECUTIVE ACTION ON SB 210 - Prohibit consent as a defense for physician-assisted suicide

10:45:19 **Motion:** Sen. Barry Usher moved that **SB 210 DO PASS.**

10:47:53 **Motion:** Sen. Jen Gross moved that **SB 210 BE AMENDED.**

10:47:53 **Vote:** Motion carried 10 - 1 by voice vote with Sen. Emrich, voting no.

10:48:38 **Motion:** Sen. Daniel Emrich moved that **SB 210 SEGREGATE 'AND KNOWINGLY'.**

10:48:38 **Vote:** Motion carried 10 - 1 by roll call vote with Sen. Emrich, voting no.

10:51:46 **Motion:** Sen. Barry Usher moved that **SB 210 DO PASS AS AMENDED.**

10:51:46 **Vote:** Motion carried 7 - 4 by voice vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.

EXECUTIVE ACTION ON SB 218 - Revise laws pertaining to settlements

10:52:43 **Motion:** Sen. Barry Usher moved that **SB 218 DO PASS.**

10:54:07 **Motion:** Sen. Barry Usher moved that **SB 218 BE AMENDED.**

10:54:07 **Vote:** Motion failed unanimously by voice vote.

10:57:21 **Motion:** Sen. Barry Usher moved that **SB 218 DO PASS.**

10:57:21 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.

EXECUTIVE ACTION ON SB 247 - Revise covenant laws

23:00:06 **Motion:** Sen. Barry Usher moved that **SB 247 DO PASS.**

23:00:06 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 252 - Expand state ethics laws to include the judicial branch and judges

23:01:31 **Motion:** Sen. Barry Usher moved that **SB 252 DO PASS.**

23:01:31 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 79 - Create sexual assault response network program and committee

23:03:53 **Motion:** Sen. Barry Usher moved that **HB 79 BE CONCURRED IN.**

23:06:04 **Motion:** Sen. Barry Usher moved that **HB 79 BE AMENDED.**

23:06:04 **Vote:** Motion carried unanimously by voice vote.

23:08:30 **Motion:** Sen. Jen Gross moved that **HB 79 BE AMENDED.**

23:08:30 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.

23:21:02 **Motion:** Sen. Barry Usher moved that **HB 79 BE CONCURRED IN AS AMENDED.**

23:21:02 **Vote:** Motion carried unanimously by voice vote.

23:21:02 **Carrier Assigned:** Sen. Keith Regier

EXECUTIVE ACTION ON HB 112 - Generally revise human trafficking laws

23:22:12 **Motion:** Sen. Barry Usher moved that **HB 112 BE CONCURRED IN.**

23:23:12 **Motion:** Sen. Barry Usher moved that **HB 112 BE AMENDED.**

23:23:12 **Vote:** Motion carried unanimously by voice vote.

23:24:21 **Motion:** Sen. Barry Usher moved that **HB 112 BE CONCURRED IN AS AMENDED.**

23:24:21 **Vote:** Motion carried unanimously by voice vote.

23:24:21 **Carrier Assigned:** Sen. Barry Usher

EXECUTIVE ACTION ON SB 169 - Generally revise punitive damage laws

- 23:24:00 **Motion:** Sen. Barry Usher moved that **SB 169 DO PASS.**
- 23:32:01 **Motion:** Sen. Barry Usher moved that **SB 169 BE AMENDED.**
- 23:32:01 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Gross, By Proxy
- 23:32:44 **Motion:** Sen. Andrea Olsen moved that **SB 169 BE AMENDED.**
- 23:32:44 **Vote:** Motion failed 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting yes.
Sen. Gross, By Proxy
- 23:43:05 **Motion:** Sen. Keith Regier moved that **SB 169 DO PASS AS AMENDED.**
- 23:43:05 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Gross, By Proxy

ADJOURNMENT

Adjournment: 11:25:57

Grace Gibney, Secretary

Additional Documents: [EXHIBIT\(230209JUSaad\)](#)

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (H) JUDICIARY

Call to Order: Chair Amy Regier-R, on March 24, 2023 at 8:01 AM, in 137

ROLL CALL

Members Present: Rep. Amy Regier, Chair (R)
Rep. Laurie Bishop, Vice Chair (D)
Rep. Brandon Ler, Vice Chair (R)
Rep. Jennifer Carlson (R)
Rep. Lee Deming (R)
Rep. Neil Duram (R)
Rep. Jodee Etchart (R)
Rep. Tom France (D)
Rep. Donavon Hawk (D)
Rep. Caleb Hinkle (R)
Rep. Jedediah Hinkle (R)
Rep. SJ Howell (D)
Rep. Greg Kmetz (R)
Rep. Casey Knudsen (R)
Rep. Wayne Rusk (R)
Rep. Laura Smith (D)

Members Excused: Rep. Kim Abbott (D)
Rep. Braxton Mitchell (R)
Rep. Lola Sheldon-Galloway (R)
Rep. Zooey Zephyr (D)

Staff Present: Jamie Van Valkenburg, Secretary
Rachel Weiss, Research Analyst

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 479 03/23/2023
SB 169 03/16/2023
SB 172 03/20/2023
SB 180 03/16/2023

SB 184 03/16/2023
SB 216 03/16/2023
SB 268 03/16/2023
SB 277 03/20/2023

Executive Action:

HEARING ON SB 216 - Revise laws related to litigation and products

Opening Statement:

08:02:34 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 216, Revise laws related to litigation and products.

Proponent Testimony:

08:08:14 Charles Robison, Montana Chamber of Commerce

[EXHIBIT\(230324JUH1\)](#)

08:09:52 Lee Mickus, American Tort Reform Association

08:12:42 Ronda Wiggers, National Federation of Independent Businesses

08:13:50 Dan Brooks, Billings Chamber of Commerce

08:14:47 Bryan Wood, Woods Power Grip

Opponent Testimony:

08:16:26 Al Smith, Montana Lawyers Association

[EXHIBIT\(230324JUH2\)](#)

[EXHIBIT\(230324JUH3\)](#)

08:20:44 Amanda Frickle, American Federation of Labor and Congress of Industrial Organizations

08:23:04 Jim Hunt, Montana Trial Lawyers

08:26:17 Adam Haight, American Federation of Labor and Congress of Industrial Organizations

08:27:07 Domenic Cossi, Self

08:28:39 Mark Person, Self

08:30:18 Brett DeBruycker, Self

08:31:42 Monte Beck, Self
08:33:11 Jory Ruggiero, Self
08:35:09 Anthony Jackson, Self
08:36:22 Alexander Blewett, Self
08:37:54 Tom Copenhaver, Self

Informational Witness Testimony:

None

Questions from Committee:

08:39:36 Rep. Casey Knudsen
09:08:27 Bryan Wood

Closing Statement:

09:09:31 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 216.

HEARING ON SB 277 - Revise laws relating to victims of crime

Opening Statement:

09:09:48 Sen. Shane Morigeau (D), SD 95, opened the hearing on SB 277, Revise laws relating to victims of crime.

Discussion:

[EXHIBIT\(230324JUH4\)](#)

[EXHIBIT\(230324JUH5\)](#)

Proponent Testimony:

09:20:38 Robin Turner, Montana Coalition Against Domestic and Sexual Violence
09:22:50 Kristi Bice, Self

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

None

Closing Statement:

09:24:44 Sen. Shane Morigeau (D), SD 95, closed the hearing on SB 277.

HEARING ON SB 180 - Generally revise court-appointed special advocate and guardian ad litem laws

Opening Statement:

09:27:05 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 180, Generally revise court-appointed special advocate and guardian ad litem laws.

Proponent Testimony:

09:31:06 Denise Johnson, Montana Child Protection Alliance

Opponent Testimony:

09:32:27 April Barnings, Montana Casa

09:34:51 Alison Dunne, Casa

09:38:40 Devonna McCartney, Casa

09:41:09 Leslie Halligan, Self

09:43:42 Paulina Roberts, Self

09:45:28 Cherie LeBlanc-Dyba, Casa

Informational Witness Testimony:

09:47:19 Chase Rosario, State Coordinator for CASA

09:48:33 Nikki Grossberg, Child and Family Services Division

Questions from Committee:

09:49:06 Rep. Jodee Etchart

09:58:50 Leslie Halligan

Closing Statement:

09:59:21 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 180.

HEARING ON SB 184 - Revise procedural requirements in child abuse and neglect proceedings

Opening Statement:

10:01:50 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 184, Revise procedural requirements in child abuse and neglect proceedings.

Proponent Testimony:

10:07:28 Denise Johnson, Montana Child Protection Alliance

Opponent Testimony:

10:09:09 Bruce Spencer, Montana Judges Association

10:12:29 Heather Webster, Yellowstone County Attorney's Office

Informational Witness Testimony:

10:13:56 Nikki Grossberg, Child and Family Services Division

10:14:16 Brian Smith, Office of the Public Defender

Questions from Committee:

10:14:48 Rep. Jennifer Carlson

10:20:30 Brian Smith

Closing Statement:

10:21:42 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 184.

HEARING ON HB 479 - Provide appropriation for DOJ to assume law enforcement PL-280

Opening Statement:

10:26:04 Rep. Joe Read (R), HD 93, opened the hearing on HB 479, Provide appropriation for DOJ to assume law enforcement PL-280.

Proponent Testimony:

10:38:44 Gale Decker, Lake County Commissioner

Opponent Testimony:

10:40:51 Lex Pierre, Look up his tribe name

Informational Witness Testimony:

10:45:32 Nate Thomas, Department of Justice

Questions from Committee:

10:45:56 Rep. Donavon Hawk

10:47:04 Rep. Joe Read-R

Closing Statement:

10:47:39 Rep. Joe Read (R), HD 93, closed the hearing on HB 479.

HEARING ON SB 172 - Generally revise bail bond laws

Opening Statement:

10:53:15 Sen. Chris Friedel (R), SD 26, opened the hearing on SB 172, Generally revise bail bond laws.

Proponent Testimony:

10:57:43 Frank Cote, Office of the State Auditor

10:59:18 John Looney, Montana Bail Agents Association

11:01:33 John Willoughby, Montana Bail Association

Opponent Testimony:

None

Questions from Committee:

11:02:36 Rep. Jennifer Carlson

11:05:18 Sen. Chris Friedel-R

11:05:48 John Looney

Closing Statement:

11:07:34 Sen. Chris Friedel (R), SD 26, closed the hearing on SB 172.

HEARING ON SB 169 - Generally revise punitive damage laws

Opening Statement:

11:10:52 Sen. Greg Hertz (R), SD 6, opened the hearing on SB 169, Generally revise punitive damage laws.

Proponent Testimony:

None

Opponent Testimony:

11:21:03 Al Smith, Montana Trial Lawyers Association

Informational Witness Testimony:

None

Questions from Committee:

11:24:22 Rep. Jennifer Carlson

11:34:54 Sen. Greg Hertz-R

Closing Statement:

11:35:08 Sen. Greg Hertz (R), SD 6, closed the hearing on SB 169.

HEARING ON SB 268 - Generally revise short-term rental laws

Opening Statement:

11:36:02 Sen. Greg Hertz (R), SD 6, opened the hearing on SB 268, Generally revise short-term rental laws.

Proponent Testimony:

11:45:53 Leslie Everett, Self

11:49:11 Brian Wells, Self

11:51:45 Sam Sill, Montana Association of Realtors

11:53:10 DruAnn Robidou, Self
11:55:43 John Robidou, Self
11:56:55 Leslie Feigel, Livingston Chamber of Commerce
12:01:43 Stephanie Baucus, Mountain Homes
12:01:57 Kim Kaiser, Self

Opponent Testimony:

12:03:31 Andy Skinner, Self
12:05:54 Daniel Carlino, Self
12:07:41 Robin Turner, City Of Whitefish
12:10:15 Jake Brown, Shelter Whitefish
12:11:12 Caitlin Piserchia, Montana Sierra Club
12:13:14 Ethan Hanley, Associated Students of the University of Montana
12:13:36 John Metropoulus, Air BnB
12:16:28 Greg Lynch, Self
12:17:34 Derke Goldman, Self
12:18:45 Jana Richter, Self
12:20:04 Izzy Milch, Forward Montana
12:21:06 William Marchese, Self
12:22:05 Tirza Asbell, Montana Women Vote
12:22:36 Danielle Vazquez, Self
12:23:14 Alanah Griffith, Self
12:24:14 Renata Munfrada, City Of Bozeman

Informational Witness Testimony:

12:25:32 Eric Copland, Department of Labor and Industry

Questions from Committee:

12:26:11 Rep. Neil Duram

12:36:01 Sen. Greg Hertz-R

Closing Statement:

12:37:13 Sen. Greg Hertz (R), SD 6, closed the hearing on SB 268.

12:40:48 **Committee Discussion:** Meeting on Saturday

12:41:04 Chair Amy Regier

12:41:15 Rep. Jennifer Carlson

ADJOURNMENT

Adjournment: 12:41:45

Jamie Van Valkenburg, Secretary

Additional Documents: [EXHIBIT\(230324JUHaad\)](#)

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (H) JUDICIARY

Call to Order: Chair Brandon Ler-R, on March 25, 2023 at 9:39 AM, in 137

ROLL CALL

Members Present: Rep. Amy Regier, Chair (R)
Rep. Laurie Bishop, Vice Chair (D)
Rep. Brandon Ler, Vice Chair (R)
Rep. Jennifer Carlson (R)
Rep. Lee Deming (R)
Rep. Neil Duram (R)
Rep. Jodee Etchart (R)
Rep. Tom France (D)
Rep. Caleb Hinkle (R)
Rep. Jedediah Hinkle (R)
Rep. Greg Kmetz (R)
Rep. Braxton Mitchell (R)
Rep. Wayne Rusk (R)
Rep. Laura Smith (D)
Rep. Zooey Zephyr (D)

Members Excused: Rep. Kim Abbott (D)
Rep. Donavon Hawk (D)
Rep. SJ Howell (D)
Rep. Casey Knudsen (R)
Rep. Lola Sheldon-Galloway (R)

Staff Present: Jamie Van Valkenburg, Secretary
Rachel Weiss, Research Analyst

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

Executive Action:

SB 68
SB 89

SB 95
SB 169 BE CONCURRED IN AS
AMENDED
SB 171
SB 182
SB 345
SJ 15 BE CONCURRED IN

EXECUTIVE ACTION ON SB 68 - Revise laws related to coroner inquests for DOC facilities

09:41:15 **Motion:** Rep. Brandon Ler moved that **SB 68 BE CONCURRED IN.**

Discussion:

09:41:43 Rep. Zooey Zephyr

09:42:22 Rep. Neil Duram

09:42:49 Rep. Jennifer Carlson

09:43:14 Rep. Zooey Zephyr

09:41:15 **Vote:** Motion carried 16 - 3 by roll call vote with Rep. Hawk, Rep. Howell, Rep. Zephyr, voting no.
Rep. Hawk, Rep. Howell, By Proxy

09:41:15 **Carrier Assigned:** Rep. Neil Duram

EXECUTIVE ACTION ON SB 89 - Create pretrial diversion pilot program

09:44:40 **Motion:** Rep. Brandon Ler moved that **SB 89 BE CONCURRED IN.**

09:45:25 **Motion:** Rep. Brandon Ler moved that **SB 89 BE AMENDED.**

Discussion:

09:46:44 Vice Chair Laurie Bishop

09:47:19 Rep. Tom France

09:48:10 Rep. Greg Kmetz

09:48:26 Rep. Jedediah Hinkle

09:49:28 Vice Chair Brandon Ler

09:49:49 Rep. Laura Smith

09:50:24 Vice Chair Brandon Ler

09:45:25 **Vote:** Motion carried 13 - 6 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Howell, Rep. Smith, Rep. Zephyr, voting no.
Rep. Hawk, Rep. Howell, By Proxy

09:52:17 **Motion:** Rep. Brandon Ler moved that **SB 89 BE CONCURRED IN AS AMENDED.**

Discussion:

09:52:24 Vice Chair Laurie Bishop

09:52:17 **Vote:** Motion carried 12 - 7 by roll call vote with Rep. Bishop, Rep. France, Rep. Knudsen, Rep. Ler, Rep. Mitchell, Rep. Rusk, Rep. Sheldon-Galloway, voting no.
Rep. Knudsen, Rep. Sheldon-Galloway, By Proxy

09:52:17 **Carrier Assigned:** Rep. Jennifer Carlson

EXECUTIVE ACTION ON SB 95 - Generally revise theft laws

09:54:18 **Motion:** Rep. Brandon Ler moved that **SB 95 BE CONCURRED IN.**

09:54:18 **Vote:** Motion carried 11 - 8 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Hinkle, Rep. Howell, Rep. Knudsen, Rep. Smith, Rep. Zephyr, voting no.
Rep. Hawk, Rep. Howell, Rep. Knudsen, By Proxy

09:54:18 **Carrier Assigned:** Rep. Wayne Rusk

EXECUTIVE ACTION ON SB 169 - Generally revise punitive damage laws

09:55:38 **Motion:** Rep. Brandon Ler moved that **SB 169 BE CONCURRED IN.**

09:56:16 **Motion:** Rep. Brandon Ler moved that **SB 169 BE AMENDED.**

09:56:16 **Vote:** Motion carried 17 - 2 by roll call vote with Rep. Duram, Rep. Zephyr, voting no.

09:58:23 **Motion:** Rep. Brandon Ler moved that **SB 169 BE CONCURRED IN AS AMENDED.**

09:58:23 **Vote:** Motion carried 12 - 7 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Howell, Rep. Knudsen, Rep. Smith, Rep. Zephyr, voting no.
Rep. Hawk, Rep. Howell, Rep. Knudsen, By Proxy

EXECUTIVE ACTION ON SB 171 - Provide for distribution of certain property/funds after inmate dies in custody

10:01:37 **Motion:** Rep. Brandon Ler moved that **SB 171 BE CONCURRED IN.**

10:01:37 **Vote:** Motion carried 18 - 1 by roll call vote with Rep. Hawk, voting no.
Rep. Hawk, By Proxy

10:01:37 **Carrier Assigned:** Rep. Jedediah Hinkle

EXECUTIVE ACTION ON SB 182 - Create task force on a court system for dependency and neglect cases

10:03:17 **Motion:** Rep. Brandon Ler moved that **SB 182 BE CONCURRED IN.**

10:03:17 **Vote:** Motion carried unanimously by voice vote.

10:03:17 **Carrier Assigned:** Rep. Jennifer Carlson

EXECUTIVE ACTION ON SB 345 - Revise sex offender laws

10:05:25 **Motion:** Rep. Brandon Ler moved that **SB 345 BE CONCURRED IN.**

10:05:25 **Vote:** Motion carried 18 - 1 by roll call vote with Rep. Zephyr, voting no.

10:05:25 **Carrier Assigned:** Rep. Casey Knudsen

EXECUTIVE ACTION ON SJ 15 - Resolution on Marbury v. Madison

10:07:55 **Motion:** Rep. Brandon Ler moved that **SJ 15 BE CONCURRED IN.**

Discussion:

10:08:43 Rep. Tom France

10:09:12 Rep. Wayne Rusk

10:07:55 **Vote:** Motion carried 11 - 8 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Howell, Rep. Knudsen, Rep. Rusk, Rep. Smith, Rep. Zephyr, voting no.
Rep. Hawk, Rep. Howell, Rep. Knudsen, By Proxy

ADJOURNMENT

Adjournment: 10:12:19

Jamie Van Valkenburg, Secretary

Additional Documents: [EXHIBIT\(230325JUHaad\)](#)